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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 ALEXANDER OCASIO,) 3:08-cv-00441-HDM-RAM
10 Plaintiff,)
11 vs.) ORDER
12 E.K. McDANIEL, et al.,)
13 Defendants.)
14 _____

15 The court has considered the report and recommendation of the
16 United States Magistrate Judge (#99) filed on June 15, 2010, in
17 which the magistrate judge recommends that this court enter an
18 order granting defendants' motion for summary judgment (#68).
19 Plaintiff did not file an opposition to the motion for summary
20 judgment, nor did he file any objections to the report and
21 recommendation, and the time for doing so has expired.

22 The court has considered the pleadings and memoranda of the
23 parties and other relevant matters of record and has made a review
24 and determination in accordance with the requirements of 28 U.S.C.
25 § 636 and applicable case law, and good cause appearing, the court
26 hereby

ADOPTS AND ACCEPTS as modified below the report and recommendation of the United States Magistrate Judge (#99). The court agrees that summary judgment is proper on plaintiff's access to the courts claims. However, plaintiff's complaint also invokes due process and equal protection in each of the three counts. The court finds that the substance of plaintiff's complaint goes only to his access to the courts claims, and that nothing in the record supports a claim under either due process or equal protection. Accordingly, to the extent plaintiff's complaint can be read to assert claims for violations of due process and equal protection, those claims are hereby dismissed.

The defendants' motion for summary judgment (#68) is **GRANTED**. The clerk of the court shall enter judgment accordingly.

IT IS SO ORDERED.

DATED: This 12th day of July, 2010.

Howard D. McRillan

UNITED STATES DISTRICT JUDGE

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